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## OLR Bill Analysis

### sHB 5536

#### ***AN ACT CONCERNING REQUIREMENTS FOR CERTIFICATION AS A COMMUNITY ASSOCIATION MANAGER, LICENSURE AS A REAL ESTATE BROKER OR SALESPERSON AND ORGANIZATION OF A UNIT OWNERS' ASSOCIATION.***

#### **SUMMARY:**

This bill allows courts to impose civil penalties of up to \$5,000 on anyone who is found to have violated the Common Interest Ownership Act (CIOA). Existing law allows anyone subject to CIOA to bring an action to enforce rights granted by CIOA or by the association's declaration or bylaws, and allows courts to award reasonable attorneys fees and costs.

The bill requires new applicants for community association manager registration to submit to criminal background checks. It also establishes education and testing requirements for community association managers. The testing requirement does not apply to anyone who has been registered as a community association manager for at least 10 years as of October 1, 2012. The bill specifies that failure to comply with this education requirement can subject the person to revocation or suspension of his or her registration, among other things. The bill also requires the Department of Consumer Protection (DCP) to adopt regulations related to the testing and education requirements.

By law, to renew their licenses, licensed real estate brokers and salespersons must complete continuing education requirements, which can be satisfied, among other things, through courses approved by the Real Estate Commission within DCP. The bill provides that such courses must include practices and laws on common interest communities (e.g., condominiums). It also specifies that the DCP commissioner's regulations on coursework approval must include such matters.

The bill also requires unit owners' associations under CIOA that are created on or after October 1, 2012 to be organized as business or nonstock corporations. Current law also allows unit owners' associations under CIOA to be organized as trusts, partnerships, or unincorporated associations.

EFFECTIVE DATE: October 1, 2012

## **COMMUNITY ASSOCIATION MANAGERS**

### ***§ 1 – Criminal Convictions and Background Checks***

By law, community association managers must register with DCP. The bill requires the application form to include a question about whether the applicant has any felony convictions in any jurisdiction.

The bill also requires anyone seeking an initial community association manager registration certificate with DCP on and after October 1, 2012 to submit to the DCP commissioner's request for a state and national criminal background check. (The bill does not specify who must pay for the background check.) The bill prohibits DCP from issuing a registration to someone until DCP receives the person's background check.

### ***§§ 2, 3, 4 – Education and Testing Requirements***

The bill requires all community association managers to successfully complete a nationally recognized course on community association management. Under the bill, anyone who was registered before October 1, 2012 has until October 1, 2014 to complete the course; anyone initially registered on or after October 1, 2012 must complete the course within one year of registration.

The bill also requires community association managers who receive their initial registration on or after October 1, 2012, as well as those who were registered before then and have been registered for less than 10 years, to pass an examination, with the same deadlines as required for completing the course outlined above. The exam may be (1) the National Board of Certification for Community Association Managers' Certified Manager of Community Associations examination or (2) a

similar examination that the DCP commissioner prescribes in regulations (see below).

By law, the Real Estate Commission can take various actions against someone who violates any provision of the community association manager law. The bill specifies that this includes the failure to comply with its educational requirements. These actions include (1) revoking, suspending, or refusing to issue or renew a community association manager's registration certificate, (2) placing a registrant on probation, or (3) issuing a letter of reprimand. By law, the commission can revoke or suspend a registration certificate only after notice and a hearing in accordance with the Uniform Administrative Procedure Act.

**Registration Renewal.** The bill requires community association managers, when applying for their annual registration renewal, to submit to DCP documentation showing that they have passed any required examination or completed any required coursework.

**Regulations.** The bill requires DCP, with the Real Estate Commission's advice and assistance, to adopt regulations on (1) any examination required for community association manager certification and (2) the approval of (a) schools, institutions, or organizations that offer courses in current practice and laws concerning community association management and (b) the course contents. The regulations must specify how to meet the educational requirements. They must also include exemptions from the requirements for reasons of health or individual hardship.

The bill prohibits DCP, in adopting the regulations, from disapproving an examination or course, or the school, institution, or organization that offers an examination or course, solely because the examination or course is offered or taught electronically.

## **BACKGROUND**

### ***Common Interest Ownership Act (CIOA)***

CIOA governs the creation, alteration, management, termination, and sale of condominiums and other common interest communities

(CGS § 47-200 *et seq.*).

Generally, CIOA applies to common interest communities created in Connecticut on or after January 1, 1984. However, certain provisions of CIOA (including the provision on court actions that this bill amends), to the extent necessary to construe these provisions, apply to common interest communities created in Connecticut before January 1, 1984, but only with respect to events and circumstances that occur after that date. Condominiums created before then can amend their governing instruments to conform to portions of CIOA that do not automatically apply (CGS §§ 47-214, -216, -218).

***Related Bill***

HB 5511, reported favorably by the Judiciary Committee on April 2, 2012, changes requirements under CIOA for approval of annual budgets, special assessments, and assignments of the right to future income as security for loan agreements.

**COMMITTEE ACTION**

Judiciary Committee

Joint Favorable Substitute

Yea    42    Nay   0    (04/02/2012)